2011R1996H

1	H. B. 2884
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3 4	(By Delegates Hunt, Fragale, Hartman, Barker, Martin, Guthrie and Sobonya)
5	[Introduced January 27, 2011; referred to the
6	Committee on Energy, Industry and Labor, Economic
7	Development and Small Business then the Judiciary.]
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10	A BILL to amend and reenact $\$21-9-11a$ of the Code of West Virginia,
11	1931, as amended, relating to establishing a statute of
12	limitations regarding claims involving manufactured housing;
13	deferral period for inspection and administrative remedies;
14	and clarifying that the filing of complaints must first be
15	made to the State Regulatory Board.
16	Be it enacted by the Legislature of West Virginia:
17	That §21-9-11a of the Code of West Virginia, 1931, as amended,
18	be amended and reenacted to read as follows:
19	ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.
20	\$21-9-11a. Inspection of manufactured housing; deferral period for
21	inspection and administrative remedies; notification
22	to consumers of rights.
23	(a) Inspection of manufactured housing. When a purchaser or
24	owner of a manufactured home files a written complaint with the

1 board alleging defects in the manufacture, construction or 2 installation of the manufactured home, and any additional 3 information the board considers necessary to conduct an 4 investigation, the board shall, within sixty days, to the extent 5 feasible, cause an inspection of the manufactured home by one or 6 more of its employees or person authorized and supervised by the 7 board. The board shall provide the consumer a written report 8 indicating whether the defects alleged by the complaint constitute 9 violations of federal or state statutory or regulatory standards or 10 good and customary manufacturing standards in the construction, 11 design, manufacture or installation of the manufactured home. If 12 the report indicates that the alleged defects do constitute any of 13 these violations, constitute a violation, the board shall take such 14 further administrative action as provided for in this article 15 including, but not limited to, ordering the manufacturer, dealer or 16 contractor to correct any defects.

17 (b) Limited period for exclusive administrative remedy. <u>A</u> 18 <u>purchaser or owner of a manufactured home may not file a civil</u> 19 <u>action seeking monetary recovery or damages for claims related to</u> 20 <u>or arising out of the manufacture, acquisition, sale or</u> 21 <u>installation of the manufactured home until the expiration of</u> 22 <u>ninety days after the consumer or owner has filed a written</u> 23 <u>complaint with the board.</u> The board has a period of ninety days, 24 commencing with the date of filing of the complaint, to investigate

1 and take administrative action to order the correction of any 2 defects in the manufacture or installation of a manufactured home. 3 A purchaser or owner of a manufactured home may not file any civil 4 action seeking monetary recovery or damages for claims related to 5 or arising out of the manufacture, acquisition, sale or 6 installation of the manufactured home, until the expiration of 7 ninety days after the consumer or owner has filed a written 8 complaint with the board. This period of exclusive administrative 9 authority may not prohibit the purchaser or owner of the 10 manufactured home from seeking equitable relief in any <u>a</u> court of 11 competent jurisdiction to prevent or address an immediate risk of 12 personal injury or property damage. The filing of a complaint 13 under this article shall toll any applicable statutes of limitation 14 during the ninety-day period but only if the applicable limitation 15 period has not expired prior to the filing of the complaint.

16 <u>(c) Limitation of actions. Notwithstanding any other</u> 17 provision of law, except as expressly provided in this section, no 18 civil action may be filed by any purchaser or owner of a 19 manufactured home seeking monetary recovery or damages for claims 20 related to or arising out of the manufacture, acquisition, sale or 21 installation of the manufactured home, more than one year after the 22 filing of an administrative complaint with the board or two years 23 after the purchaser discovers or should have discovered a defect in 24 the manufacture, sale or installation of the manufactured home,

1 whichever period is longer.

2 (c) (d) Notice of consumer rights. Every dealer or contractor 3 who moves homes from one place to another shall provide written 4 notification to every purchaser of a manufactured home of the 5 availability of administrative assistance from the board in 6 investigating and ordering corrections of any defect in the 7 manufacture or installation of a manufactured home and the period 8 of exclusive jurisdiction given to the board. The board may 9 prescribe that the notice contain any information the board 10 determines to be beneficial to the purchaser or owner of the 11 manufactured home in exercising that person's rights under this 12 section.

NOTE: The purpose of this bill is to clarify that the complaint must be filed first with the State Regulatory Board and to establish a two year statute of limitations for actions involving manufactured housing.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.